

# City of Detroit

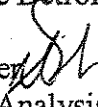
## CITY COUNCIL

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TO: The Honorable Detroit City Council

FROM: David Whitaker   
Research and Analysis Division Staff

DATE: April 29, 2009

RE: **QUORUM REQUIREMENTS FOR PUBLIC HEARINGS**

This memo from the Research and Analysis Division (RAD) is in response to a question raised by Council Member Collins regarding the requirement that a quorum of the City Council be present to receive testimony at a public hearing.<sup>1</sup>

The Detroit City Council is a public body subject to the dictates of Michigan's Open Meetings Act, MCL 15.261 *et seq.* The Open Meetings Act requires the following:

- (1) All meetings of a public body shall be open to the public and shall be held in a place available to the general public. All persons shall be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right shall not be dependent upon the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting.
  - (2) All decisions of a public body shall be made at a meeting open to the public.
  - (3) All deliberations of a public body constituting a quorum of its members shall take place at a meeting open to the public except as provided in this section and sections 7 and 8.
- MCL 15.263.

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<sup>1</sup> On March 24, 2009, RAD reissued a report dated March 2, 2009 entitled, *City Council Questions Concerning Quorum Requirements*. In this report, RAD explains the necessity of a quorum for any meeting of the Detroit City Council. That report is attached.

A "public body" is defined by the OMA as "any state or local legislative or governing body, including a board, commission, **committee, subcommittee**, authority, or council, that is empowered by state constitution, statute, charter, ordinance, resolution, or rule to exercise governmental or proprietary authority or perform a governmental or proprietary function . . . ." (emphasis added).

Section 4-107 of the Charter of the City of Detroit provides that "[a] majority of city council members serving constitutes a quorum . . . ." Council's **standing committees** are each currently comprised of **three** council members plus the council president as an *ex officio* non-voting member as provided by the Charter of the City of Detroit, section 4-106. Two voting committee members constitute a quorum of a standing committee.

The Open Meetings Act also contains **notice** requirements with respect to all meetings of public bodies. Notice of regular meetings of a public body must be posted within ten days of the first meeting of the body in each calendar or fiscal year. MCL 15.265(2); Council Rules 5.2.<sup>2</sup>

The City Clerk has complied with the OMA and posted notice of regular committee and formal meetings through the end of the calendar year. Thus, every time City Council meets, the meeting has been noticed (as required by state statute) as either a three-member committee meeting or as an eight-member committee of the whole/formal meeting. In order to call a noticed Council meeting to order in either format, an **appropriate quorum** for the meeting as **noticed** must be present.

Public hearings, required by many statutes and ordinances, always take place within the context of a Council meeting (either a standing committee of three or the committee of the whole). It must, therefore, comply with the requirements of the Open Meetings Act, the controlling authority in the State of Michigan.<sup>3</sup> The **purpose** of the meeting is not controlling. It is the fact that it is a meeting of the Body that determines the requirement of a quorum.

Should you need anything further, please advise.

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<sup>2</sup> Additional notice is required in the event a regular meeting is rescheduled or a special session is called. MCL 15.265(4). Additional notice is also required where a *public hearing* is held at a regular meeting, in which case notice of the contents of the hearing must be given. *Cape v Howell Board of Education and City of Howell*, 145 Mich App 459, 462 (1985), citing *Haven v City of Troy*, 39 Mich App 219 (1972). This requirement is routinely met by the Clerk's regular postings of daily calendars as well as by additional publication as deemed appropriate.

<sup>3</sup> The U.S. Congress operates under *The Rule of the House of Representatives*, which specifically describe a "testimony quorum" for taking testimony as set by a committee's rules, but never less than two members present. *Rule XI, 2(h)(2) - Procedures of Committees and Unfinished Business, Quorum requirements*.